



Leavitt Reservoir Expansion Project

Environmental Impact Statement



Frequently Asked Questions about Agency Roles and Responsibilities on the Leavitt Reservoir Expansion Project

What is the role of the Bureau of Land Management (BLM) in the Leavitt Reservoir Expansion Project (LREP)?

The BLM is the Lead Agency for preparing the Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA). The BLM has authority for the LREP under the Federal Land Policy and Management Act of 1976 (FLPMA) (Public Law [P.L.] 94 579, 43 United States Code [USC] 1701 et seq.). The FLPMA recognizes rights-of-way (ROWs) as one of the "principal or major uses" of public lands. The Secretary of the Interior is authorized to grant or issue ROWs for "reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other facilities and systems for the impoundment, storage, transportation, or distribution of water" per FLPMA Section 1761(1)(a). The need for this federal action, established by the BLM's responsibility under the FLPMA to provide these ROWs, is driven by documented late season irrigation shortages in the Shell Valley watershed. The purpose of this federal action is to provide access to BLM-managed public lands for increased watershed storage capacity in the Shell Valley watershed.

The BLM must address the purpose and need for the proposed LREP because much of the proposed LREP and associated infrastructure would be located on public land administered by the BLM Cody Field Office.

BLM responsibilities and decisions to be made:

- Evaluation of conformance of the project with the Cody Field Office Resource Management Plan, approved in September 2015;
- Oversight over development of the EIS, which will be used by the BLM and other agencies to make informed decisions regarding the Proposed Action and alternatives; and
- Determination whether and under what conditions the BLM will grant a ROW permit for the portion of the project that would be constructed on BLM-managed land.

The BLM's decision will be communicated through publication of a Record of Decision (ROD). The ROD will identify the selected alternative and any Conditions of Approval that will be required for a ROW permit.

Although the EIS analysis includes private and state lands, the BLM decision will only apply to public lands managed by the Cody Field Office.

What is a Cooperating Agency?

A “Cooperating Agency” is an agency that has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal (or a reasonable alternative). A Cooperating Agency typically will have some responsibilities for the EIS analysis related to its jurisdiction or special expertise, and will use that analysis to inform relevant permitting decisions, as applicable. These responsibilities are defined in a Memorandum of Understanding with the BLM. To date, 11 Cooperating Agencies have been identified:

- U.S. Army Corps of Engineers (USACE), Omaha District
- U.S. Environmental Protection Agency (EPA), Region 8
- Wyoming Water Development Commission
- Wyoming Governor’s Office
- Wyoming Office of State Lands and Investments
- Wyoming Game and Fish Department
- Wyoming State Engineer’s Office
- Wyoming Department of Environmental Quality, Water Quality Division
- Wyoming Department of Agriculture
- South Big Horn Conservation District
- Big Horn County Board of Commissioners

These Cooperating Agencies will participate in the planning process and provide information, data, technical expertise, analyses, and comments to the BLM regarding those elements of the EIS in which they have jurisdiction or special expertise or for which the BLM requests their assistance.

The USACE and EPA are federal agencies that have special jurisdiction as follows:

- **U.S. Army Corps of Engineers (USACE):** The USACE has jurisdiction over Waters of the United States, including wetlands. The USACE’s decision to be made will be whether, and under what conditions, to issue a Clean Water Act (CWA) Section 404 Permit that regulates the discharge of dredged or fill material into Waters of the U.S. The USACE will cooperate on the preparation of the EIS and evaluate its content so that the EIS can be relied upon by the agency to support an eventual decision to either issue or deny a Department of the Army Permit under Section 404 of the CWA.
- **U.S. Environmental Protection Agency (EPA):** The EPA has special expertise regarding NEPA compliance and responsibilities under Section 309 of the Clean Air Act to independently evaluate the EIS.

What is the role of the AECOM in the LREP?

AECOM is the third-party contractor for the LREP EIS. They are assisting the BLM by facilitating the NEPA process, preparing the EIS, and conducting public outreach.

For more information, please visit the project webpage at http://bit.ly/Leavitt_Reservoir_EIS_2bcgpgW or contact Chad Krause, BLM Project Manager at 307-578-5909 or ckrause@blm.gov.